

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CORY HELTON,

Defendant.

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Case No. CR-07-63-RAW

ORDER

Before the court is the motion of the defendant for sentence reduction pursuant to 18 U.S.C. §3582(c). The basis presented is post-conviction rehabilitation. The court does not question defendant's statements as to rehabilitation and applauds his efforts in this regard. His motion, however, will not be granted.

Defendant cites cases for the proposition that a district judge is entitled to consider rehabilitation during resentencing. *See generally Pepper v. United States*, 131 S.Ct. 1229 (2011). These cases do not, however, apply. "A sentence-reduction proceeding under §3582(c)(2) is not a form of resentencing. It is instead a summary procedure designed to implement a change in the Sentencing Guidelines." *United States v. Brown*, 2012 WL 4096345 (3d Cir.2012)(citation omitted). In such a proceeding, a district judge is not required "to give effect to events that may have occurred after the original sentencing, such as consideration of post-sentencing rehabilitation or good conduct." *Id.* This does not mean that the district court is forbidden from considering rehabilitation, but the defendant must properly invoke the statute first.

The statute provides only three jurisdictional grants under which a court may modify a term of imprisonment once it has been imposed. First, upon motion of the Director of the Bureau of Prisons. Second, if such modification is otherwise permitted by statute or by Rule 35 F.R.Cr.P. Third, if a sentencing range has subsequently been lowered by the Sentencing Commission. *See United States v. Lonjose*, 663 F.3d 1292, 1299 (10th Cir.2011). The court finds none of these three avenues available to this defendant

It is the Order of the court that the motion of the defendant (#34) is hereby dismissed for lack of jurisdiction.

ORDERED THIS 19th DAY OF NOVEMBER, 2012.

A handwritten signature in dark ink, reading "Ronald A. White", written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma